IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No. 338 of 2000

For Approval and Signature:

HONOURABLE MR.JUSTICE P.B.MAJMUDAR

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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KHATUBHAI M VANJARA AND OTHERS

Versus

SARPANCH NISARTA PARSINGH NATHABHAI AND OTHERS

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Appearance :
MS AMRITA THAKORE for MR MIHIR H JOSHI for the applicants.

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CORAM : HONOURABLE MR.JUSTICE P.B.MAJMUDAR

Date : 06/03/2006

ORAL JUDGMENT

By filing this Revision Application, the applicants, who are original plaintiffs of Regular Civil Suit No. 24 of 2000 have challenged the

interlocutory order dated 3.4.00 passed below Exh.70 by learned Civil Judge, Senior Division, Godhra refusing to appoint a Court Commissioner to prepare a map and site report in respect of the subject land.

This Revision Application is filed against an interlocutory order. In view of the amendment in section 115 of the Civil Procedure Code, this Revision is not maintainable as it has been filed against an interlocutory order whereby the trial Court rejected the application of the applicants-original plaintiffs to appoint a Court Commissioner to prepare a map and site report. Even considering the passage of time from the date of the order, i.e. 3.4.2000, the prayer in the interlocutory application might have become infructuous. This Revision, however, is rejected as not maintainable in view of the amendment in section 115, CPC. Rule is discharged. No order as to costs.

At this stage, Ms. Amrita Thakore for the applicants states that liberty may be granted to the applicants to prefer a fresh petition under Article 227 challenging the order impugned in this Revision Application. Since the Revision Application is not decided on merits and has been rejected on the ground that the same is not maintainable, it will be open to the applicants to take out other proceedings if permissible as per law.

[P. B. MAJMUDAR, J.]

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